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**OFFICE OF PETITIONS**

|                            |                            |
|----------------------------|----------------------------|
| In re Application of       | :                          |
| Coleman et al.             | :                          |
| U.S. Patent No. 6,864,226  | : Decision on Petition for |
| Application No. 08/972,301 | : Patent Term Extension    |
| Filed: November 18, 1997   | :                          |
| For: ENDOTHELIAL-MONOCYTE  | :                          |
| ACTIVATING POLYPEPTIDE III | :                          |

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Letter Regarding Patent Term Extension Calculation" received April 1, 2005.

The petition is granted.

Petitioner notes that the above-identified application was suspended by the Office on July 2, 2001 and again on August 12, 2002 for a potential interference. Petitioner states that while he requested that an interference be declared, he is not aware of an interference being declared.

The Notice of Allowance and Issue Fee Due mailed on May 6, 2004, incorrectly indicated that the patent to issue from the application 08/972,301 is eligible for a 407 day extension, where a no extension is due. The front page of the patent incorrectly indicates that the term of the patent is extended for 407 days.

The petition is GRANTED.

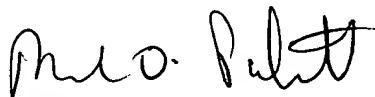
The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154. 35 U.S.C. § 154 provides for patent term extension for appellate review, interference and secrecy order delays in utility and plant applications filed on or after June 8, 1995, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for other specifically defined administrative delays in utility and plant applications filed on or after May 29, 2000.

Although prosecution was suspended in the above-identified application, the suspensions were due to a potential interference with applicants' application with other applications, not to await the result of an interference proceeding in another application. As a result, the provisions of 37 CFR 1.701(c)(1)(ii) do not apply. Thus, the patent is not eligible for patent term extension.

After mailing of this decision, the application will be forwarded to the Certificate of Correction Branch. The Office will issue a certificate of correction in order to rectify the error regarding the patent term extension information. See 35 U.S.C. 254 and 37 CFR 1.322. The Office will issue a certificate of correction indicating that the patent term is extended by **0 days**.

Petitioner's deposit account has not been charged a petition fee.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



Mark O. Polutta  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
for Patent Examination Policy